

JUL 27 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FLORENTINO ZUNIGA COLIN; et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 05-76504

Agency Nos. A75-706-881
A75-706-882

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 24, 2006^{**}

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Florentino Zuniga and his wife Iridia Virginia Colin Paredes, natives and citizens of Mexico, petition for review from the Board of Immigration Appeals' summary affirmance of an immigration judge's denial of their applications for

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

cancellation of removal.

We lack jurisdiction to consider petitioners' challenge to the agency's discretionary determination that they failed to demonstrate exceptional and extremely unusual hardship to their qualifying relatives. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Romero-Torres v. Ashcroft*, 327 F.3d 887, 892 (9th Cir. 2003); *Montero-Martinez v. Ashcroft*, 277 F.3d 1137, 1144 (9th Cir. 2002). To the extent petitioners raise a due process challenge to the hardship determination, we lack jurisdiction because their claims are not colorable. *See Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001) (indicating that an applicant may not create the jurisdiction Congress chose to remove simply by cloaking an abuse of discretion argument in constitutional garb).

Petitioners' challenge to the BIA's streamlining procedures is foreclosed by our holding in *Falcon Carriche v. Ashcroft*, 350 F.3d 845, 855 (9th Cir. 2003).

PETITION FOR REVIEW DISMISSED IN PART AND DENIED IN PART.